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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/709,061 | 04/09/2004 | Kazuhiro Murata | SIMTEK6893 | 3060 |
| 25776 | 7590 | 07/11/2005 | EXAMINER | |
| ERNEST A. BEUTLER, ATTORNEY AT LAW 10 RUE MARSEILLE NEWPORT BEACH, CA 92660 | | | LUM VANNUCCI, LEE SIN YEE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3611 | |

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,061

Applicant(s)

MURATA, KAZUHIRO

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following claims are objected to because of lack of antecedent basis:
in Claim 2 – amount,
in Claim 9 – detected torque, detected torque value, processed torque value, time,
in Claim 10 – amount, detected torque value, time, next peak,
in Claim 14 – amount, line 6 – force, line 8 – force, line 11 - variations, line 13 - detected torque value,
in Claim 18 – processed torque value, line 7 – time,
in Claim 19 – next peak.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-13 and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 9, 10, 18 and 19, “detected torque/torque value” and “processed torque value” are unclear as they have not been described in the respective (or preceding) claim. Also, it is unclear if “detected torque” is the same as “detected torque value”.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Takata 5474148.

Takata discloses a power-assisted vehicle comprising
Propulsion device; i.e., crankshaft 24, wheels 16, 17, and pedals 27,
Electric motor 29,
(Pedal) force sensor 33,
Calculator/controller 32 measuring data from the sensor, and determining an assist force for the motor, as disclosed in c5, ln 10-11, including

The assist force varying cyclically, and at a smaller amplitude than that of the pedals (figs 6-9, and c4, ln 44, to c5, ln 2), and

Is never zero when manual force is applied (fig 9, and c4, ln 44-46), and,
Is related to vehicle speed (fig 9).

The reference also discloses a method of controlling an amount of power assist for a power-assisted vehicle, the steps derived from the structure/means provided above.

4. *As best understood*, **Claims 9-13 and 18-20** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and all 112 issues resolved. Prior art does not disclose the vehicle described above further comprising, *inter alia*, a detected torque being processed in succession with predetermined decrease rates.

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5. The prior art considered pertinent to the disclosure, but not relied upon, include(s):
Hayashi et al 6247548, Morrison 5992553, Matsumoto et al 5857537, Takata et al 5375676.

6. Communication with the Examiner/USPTO

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 571 272-6649, M-F, 9-5. If she cannot be reached, her supervisor, Ms. Lesley Morris, may be reached at 571 272-6651. Our central fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. For unpublished applications - private PAIR only. For published applications - private or public PAIR. For more information re PAIR - <http://pair-direct.uspto.gov>. Questions re private PAIR - contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum-Vannucci
Examiner
7/6/05

